

## **REMARKS**

In view of the above amendments and the following remarks reconsideration and further examination are respectfully requested.

### **I. Amendments to the Specification and Abstract**

The specification and abstract have been reviewed and revised to improve their English grammar. The amendments to the specification and abstract have been incorporated into a substitute specification and abstract. Attached are two versions of the substitute specification and abstract, a marked-up version showing the revisions, as well as a clean version. No new matter has been added.

### **II. Amendments to the Claims**

Independent claim 1 has been amended to clarify features of the invention and to further distinguish the claimed invention from the referenced prior art. Claims 17 and 18 have been cancelled without prejudice or disclaimer of the subject matter recited therein.

Further, non-elected claims 8-12 and 14-16 have been identified as being withdrawn.

It is also noted that claims 1-7 and 13 have been amended to make a number of editorial revisions thereto. These editorial revisions have been made to place the claims in better U.S. form. Further, these editorial revisions have not been made to narrow the scope of protection of the claims, or to address issues related to patentability, and therefore, these amendments should not be construed as limiting the scope of equivalents of the claimed features offered by the Doctrine of Equivalents.

### **III. 35 U.S.C. § 101 Rejections**

Claims 1-7, 13, 17 and 18 were rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Specifically, claims 1-7, 13, 17 and 18 were rejected under 35 U.S.C. § 101 for reciting subject matter that can be interpreted as software alone and for not being directed to a “process” or a “machine.” This rejection of claims 17 and 18 is considered moot in view of their above-mentioned cancellation.

Further, independent claim 1 has been amended to recite a system including a playback apparatus and an optical disc, as kindly suggested by the Examiner. The Applicants respectfully submit that the claimed “optical disc” requires more than software alone. As a result, the claimed system now requires more than software alone, is clearly directed to a “machine,” and complies with the requirements of 35 U.S.C. § 101. Therefore, withdrawal of this rejection of claims 1-7 and 13 is respectfully requested.

### **IV. 35 U.S.C. § 112, First Paragraph Rejection**

Claims 1-7, 13 and 18 were rejected under 35 U.S.C. § 112, first paragraph for reciting purely functional limitations without requiring structure (i.e., for reciting limitations directed to “unit[s] operable to”). This rejection of claim 18 is considered moot in view of the above-mentioned cancellation thereof.

In addition, independent claim 1 has been amended to recite that the “playback unit is programmed to ...” and that the “control unit is programmed to ...” As a result, the Applicants respectfully submit that independent claim 1 and claims 2-7 and 13 that depend therefrom now recite more than functional limitations and require a specific structure. Therefore, withdrawal of this rejection is respectfully requested.

**V. 35 U.S.C. § 112, Second Paragraph Rejection**

Claims 1-7, 13 and 18 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for being directed to a hybrid claim. This rejection of claim 18 is considered moot in view of the above-mentioned cancellation thereof.

Further, as kindly suggested by the Examiner, independent claim 1 has been amended to recite a system comprising a playback apparatus and an optical disc, which clarifies the subject matter which Applicants regard as the invention. In addition, regarding the comments in items 27 and 28 on pages 8 and 9 of the Office Action, the Applicants note that the claimed system does not positively recite that the server apparatus is a part of the claimed invention, but rather, the claimed system requires a structure capable of communicating with the server apparatus in the manner described in the claims.

In view of the above, it is respectfully submitted that independent claim 1 and claims 2-7 and 13 that depend therefrom are no longer indefinite and comply with the requirements of 35 U.S.C. § 112, second paragraph. Therefore, withdrawal of this rejection of claims 1-7 and 13 is respectfully requested.

**VI. 35 U.S.C. § 102 Rejection**

Claims 1-7, 13, 17 and 18 were rejected under 35 U.S.C. § 102(b) as being anticipated by Yamada (U.S. 6,141,483). This rejection is considered moot regarding claims 17 and 18 in view of their cancellation. Further, this rejection is believed clearly inapplicable to amended independent claim 1 and claims 2-7 and 13 that depend therefrom for the following reasons.

Amended independent claim 1 recites a system including an optical disc having a disc region code assigned thereto and having content and a content identifier identifying the content

recorded thereon, and including a playback apparatus for playing back the optical disc.

Furthermore, claim 1 recites that a control unit (of the playback apparatus) is programmed such that, when the control unit judges that the disc region code of the optical disc does not match the apparatus region code of the playback apparatus, the control unit judges whether a combination of the content identifier and the apparatus region code satisfies a predetermined condition defined by an owner of rights of the content. In addition, claim 1 recites that the playback unit is programmed such that (i) when the control unit judges that the combination of the content identifier and the apparatus region code satisfies the predetermined condition, the playback unit plays back the content recorded on the optical disc, and (ii) when the control unit judges that the combination of the content identifier and the apparatus region code does not satisfy the predetermined condition, the playback unit does not play back the content. Yamada fails to disclose or suggest the above-mentioned distinguishing limitations required by claim 1.

Rather, Yamada teaches various reproducing means for reproducing data from a recording medium only when certain conditions are satisfied (see abstract and col. 3, line 50 - col. 4, line 22). Specifically, Yamada teaches that the reproduction (by a recording unit 12) of the data recorded on the recording medium is performed (per the control of a control unit 11) only if (a) a region code of the recording medium matches the apparatus code of the playback apparatus, (b) a certain amount of time has not expired from the formation of the data on the recording medium, and (c) a certain condition is satisfied between specific data recorded on the recording medium and specific data set in the playback apparatus (see Fig. 2; col. 3, line 50 - col. 4, line 22; and col. 12, line 63 – col. 13, line 38).

Thus, in view of the above, it is clear that Yamada teaches that reproduction of the data recorded on the recording medium is performed only if conditions (a), (b) and (c) are satisfied,

but does not disclose or suggest that, when the control unit judges that the disc region code of the optical disc does not match the apparatus region code of the playback apparatus, the control unit judges whether a combination of the content identifier and the apparatus region code satisfies a predetermined condition defined by an owner of rights of the content, and does not disclose or suggest that the playback unit is programmed such that (i) when the control unit judges that the combination of the content identifier and the apparatus region code satisfies the predetermined condition, the playback unit plays back the content recorded on the optical disc, and (ii) when the control unit judges that the combination of the content identifier and the apparatus region code does not satisfy the predetermined condition, the playback unit does not play back the content, as recited in claim 1.

Therefore, because of the above-mentioned distinctions it is believed clear that independent claim 1 and claims 2-7 and 13 that depend therefrom are not anticipated by Yamada.

Furthermore, there is no disclosure or suggestion in Yamada or elsewhere in the prior art of record which would have caused a person of ordinary skill in the art to modify Yamada to obtain the invention of independent claim 1. Accordingly, it is respectfully submitted that independent claim 1 and claims 2-7 and 13 that depend therefrom are clearly allowable over the prior art of record.

## VII. Conclusion

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance and an early notification thereof is earnestly requested. The Examiner is invited to contact the undersigned by telephone to resolve any remaining issues.

Respectfully submitted,

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